JUDGE DAVID BRIONES

FILED
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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

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| THE UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>v.<br><br>4.17 ACRES OF LAND, MORE OR LESS SITUATE IN HUDSPETH COUNTY, STATE OF TEXAS; GSC CHIPOLTE TEXAS, LTD., and GALE CARR, INDIVIDUALLY, ET AL,<br><br>Defendants. | Civil No.<br><br>EP08CV0430 |

**COMPLAINT IN CONDEMNATION**
**WITH DECLARATION OF TAKING (40 U.S.C. §3114)**

The United States of America, by and through the undersigned Assistant United States Attorney files this Complaint in Condemnation with Declaration of Taking pursuant to 40 U.S.C. § 3114.

1. This is an action of a civil nature brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Executive Director, Asset Management, of United States Customs and Border Protection, for the taking of property under the power of eminent domain through a Declaration of Taking (Exhibit 1), and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The authority for the taking of the land is under and in accordance with the authorities set forth in Schedule "A" to Exhibit 1and made a part hereof.

4. The public purpose and use for which said property is taken is set forth in Schedule "B" to Exhibit 1 and made a part hereof.

5. A general description of the land being taken is set forth in Schedule "C" to Exhibit 1 and made a part hereof. A plan showing the property being taken is shown on Schedule "D" to Exhibit 1and made a part hereof.

6. The interest(s) being acquired in the property is described in Schedule "E" to Exhibit 1 and made a part hereof.

7. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule "G" to Exhibit 1 and made a part hereof.

8. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and payable.

9. In addition to those persons named, there are or may be others who have or may have some interest in the property or interests to be taken, whose names are unknown to the Plaintiff, and such persons are made parties in the action under the designation "Other Interested Parties."

WHEREFORE, Plaintiff demands judgment that the property and interests be condemned, and that just compensation for the taking be ascertained and awarded, and such other relief as may be lawful and proper.

JOHNNY SUTTON
UNITED STATES ATTORNEY

BY: ______________________

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THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS - EL PASO DIVISION

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|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>vs.<br><br>4.17 ACRES OF LAND, MORE OR LESS,<br>SITUATE IN HUDSPETH COUNTY, STATE OF TEXAS;<br>AND GSC CHIPOTLE TEXAS, LTD., ET AL.,<br><br>Defendants. | DECLARATION OF TAKING<br><br>CIVIL NO. |

I, Gregory L. Giddens, Executive Director, Facilities Management and Engineering, Department of Homeland Security, U.S. Customs and Border Protection, under the authority delegated to me by the Act of Congress approved November 25, 2002, as Public Law 107-296, 116 Stat. 2311 and codified at 6 U.S.C. Sections 202, 251, 551, and 557, which transferred certain authorities of the Attorney General to the Secretary of Homeland Security; and by DHS Delegation No. 7010.3(II)(B), which delegated land acquisition authority from the Secretary of Homeland Security to the Commissioner of U.S. Customs and Border Protection; and by CBP Delegation 08-004, which delegated land acquisition authority to the Executive Director of Facilities Management and Engineering, do hereby make the following declaration:

2. The public purpose for which said property is taken is set forth in Schedule "B" attached hereto and made a part hereof. The said land has been selected under my direction Hudspeth County, State of Texas.

3. A general description of the land being taken is set forth in Schedule "C" attached hereto and made a part hereof.

4. A plan showing the property being taken is shown on Schedule "D" attached hereto and made a part hereof.

5. The estate taken is described on Schedule "E" attached hereto and made a part hereof.

6. The sum estimated by the undersigned as just compensation for the land being taken is set forth in Schedule "F" attached hereto and made a part hereof. The undersigned is of the opinion that the ultimate award for said land probably will be within any limits prescribed by law to be paid therefor.

7. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule "G" attached hereto and made a part hereof.

8. The United States made best efforts to negotiate purchase of the property interest sought prior to filing this condemnation action.

8. The United States made best efforts to negotiate purchase of the property interest sought prior to filing this condemnation action.

IN WITNESS WHEREOF, the undersigned, Executive Director, Facilities Management and Engineering, Department of Homeland Security, U.S. Customs and Border Protection, hereunto subscribes his name by direction of the Secretary of the Department of Homeland Security, this 17th day of October, 2008 in the City of Washington, District of Columbia.

Gregory L. Giddens
Executive Director
Facilities Management and Engineering
Department of Homeland Security
U.S. Customs and Border Protection

SCHEDULE "A"

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with the Act of Congress approved on February 26, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

SCHEDULE "B"
PUBLIC PURPOSE

The public purpose for which said property is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE "C"
LEGAL DESCRIPTION

**Tract No: EPT-FHT-195E**

A strip of land situated within the County of Hudspeth, State of Texas; Coordinate Value Datum; Texas State Plane, Central, NAD 83, feet and being described as follows:

Said strip of land being approximately 2790.82 feet in length and being 30 feet in width, parallel to 15 feet to the left of and 15 feet to the right of and measured at right angles to the following described centerline: Beginning at the intersection of Highway Texas 20 and entrance to Chipolte Texas Processing Plant and having a coordinate value of X=581567.60, Y=10468397.10.

Thence, meandering along said centerline of existing dirt road in a southwesterly direction approximately 1856.73 feet to a point. Said point having a coordinate value of X=580216.00 and Y=10467124.06.

Thence, continuing along existing dirt road in a south, southwesterly direction, a distance of approximately 934.09 feet to the Point-of-Termination. Said P.O.T. having a coordinate value of X=579591.72, Y=10467254.10, as shown on the map attached hereto and made a part hereof.

Said strip of land containing an area of 1.92 acres, more or less.

**Tract No. EPT-FHT-270E:**

A tract of land situated within the County of Hudspeth, State of Texas; coordinate value datum, Texas State Plane, Central, NAD 83, feet and being described as follow:

Commencing at the intersection of Highway Texas 20 and entrance to Chipolte Texas Processing Plant and having a coordinate value of X=581567.60 and Y=10468397.10. Thence, in a southwesterly direction, meandering along centerline of existing dirt road, a distance of approximately 1856.73 feet to a point. Said point having a coordinate value of X=580216.00 and Y=10467124.06.

Thence, continuing along existing dirt road in a southwesterly direction, a distance of approximately 934.09 feet to the Point-of-Beginning. Said P.O.B. having a coordinate value of X=579591.72 and Y=10467254.10.

Thence, in a northwesterly direction, a distance of approximately 254.23 feet to a point. Said point having a coordinate value of X=579394.50 and Y=10467414.52.

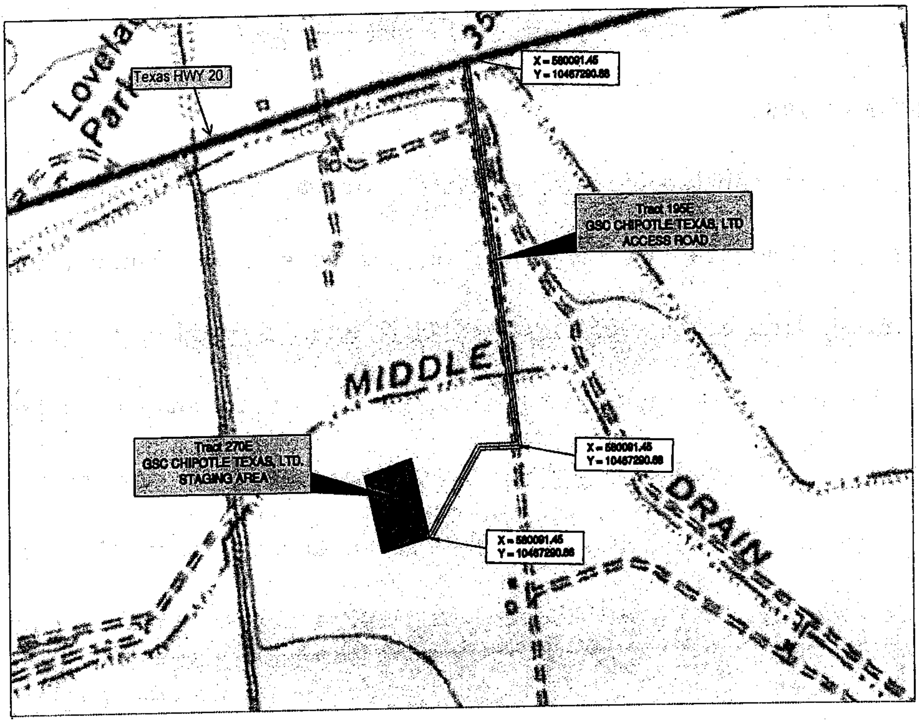
Thence, in a northeasterly direction, a distance of approximately 377.93 feet to a point. Said point having a coordinate value of X=579641.92 and Y=10467700.19.

Thence, in a southeasterly direction, a distance of approximately 256.27 feet to a point. Said point having a coordinate value of X=579848.16 and Y=10467548.09.

Thence, in a southwesterly direction, a distance of approximately 390.11 feet to the Point-of-Beginning.

Said tract of land containing an area of 2.25 acres, more or less.

SCHEDULE "D"


Texas HWY 20
Lovela
Park
Tract 195E
GSC CHIPOTLE TEXAS, LTD
ACCESS ROAD
MIDDLE
DRAIN
Tract 270E
GSC CHIPOTLE TEXAS, LTD.
STAGING AREA

* Mapping

Tract Nos: EPT-FHT-195E and Tract No. EPT-FHT-270E:

Owner: GSC CHIPOTLE TEXAS, LTD.

Acreage: 4.17 acres

County: Hudspeth County, Texas

SCHEDULE "E"
ESTATE TAKEN

**Tract No: EPT-FHT-195E**

A temporary and assignable easement and right-of-way in, over and across the land described in Schedule "C" for a period not to exceed twenty-four (24) months, beginning with date possession of the land is granted to the United States, (for the location, construction, operation, maintenance, alteration and replacement of (a) road (s) and appurtenances thereto); together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads, highways, public utilities, railroads and pipelines; reserving, however, to the owners, their successors and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road.

**Tract No. EPT-FHT-270E:**

A temporary easement and right-of-way in, on, over and across the land described in Exhibit "C", for a period not to exceed twenty-four months (24), beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a work area, including the right to move, store and remove equipment and supplies; erect and remove temporary structures on the land; and to perform any other work necessary and incident to the construction of

SCHEDULE "E"
ESTATE TAKEN
(cont.)

the border security project described herein together with the right to trim or remove any vegetative or structural obstacles that interfere with the right-of-way; subject to minerals and rights appurtenant thereto, and to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their successors and assigns, all such rights and, privileges as may be used without interfering with or abridging the rights and easement hereby acquired.

SCHEDULE "F"

ESTIMATE OF JUST COMPENSATION

The sum estimated as just compensation for the land being taken is EIGHT THOUSAND DOLLARS ($8,000.00), to be deposited herewith in the registry of said Court for the use and benefit of the persons entitled thereto.

SCHEDULE "G"
NAMES AND ADDRESSES OF INTERESTED PARTIES

GSC CHIPOTLE TEXAS LTD.
101 Port Of Entry Rd
Fort Hancock, Texas 79839

Mr. Gale Carr, Registered Agent
P.O. Box 158
Ft. Hancock, Tx 79839